



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-69,994-02**

**EX PARTE BENJAMIN JOHN SPENCER, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. W87-96524-T(B) IN THE 283RD DISTRICT COURT  
FROM DALLAS COUNTY**

*Per curiam.* Yeary, J., filed a dissenting opinion joined by Keller, P.J.

## OPINION

Applicant was convicted of aggravated robbery with a deadly weapon and sentenced to life imprisonment. The Fifth Court of Appeals affirmed his conviction. *Spencer v. State*, No. 05-88-00397-CR (Tex. App.—Dallas May 3, 1989). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Among other claims, Applicant contends that he was improperly convicted based on false testimony and *Brady* violations. In agreed findings of fact and conclusions of law, the trial court finds “substantial and compelling evidence that supports the granting of relief requested.”

We agree. Relief is granted. *Ex parte Chabot*, 300 S.W.3d 768, 772 (Tex. Crim. App. 2009);

*Brady v. Maryland*, 373 U.S. 83 (1963). The judgment in cause number F87-96524-T in the 283rd District Court of Dallas County is set aside, and Applicant is remanded to the custody of the Sheriff of Dallas County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within ten days from the date of this Court's mandate.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and the Board of Pardons and Paroles.

Delivered: May 15, 2024  
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